

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KEVIN A. MURPHY,

Plaintiff,

v.

PAUL PASTOR, *et al.*,

Defendants.

CASE NO. 3:19-cv-06171-RBL-JRC

ORDER RENOTING MOTION TO
DISMISS AND DIRECTING
DEFENDANT RICCI TO PROVIDE
NOTICE OF DISPOSITIVE
MOTION

This matter is before the Court on defendant D. Ricci's motion to dismiss. *See* Dkt. 20.

When she filed her motion to dismiss, defendant Ricci did not file a notice of dispositive motion informing plaintiff of the consequences if the motion were granted. Such is required by the Ninth Circuit. *See Woods v. Carey*, 684 F.3d 934, 935 (9th Cir. 2012).

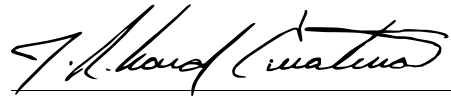
The Ninth Circuit has cautioned that failure to provide such a notice is not typically harmless. *Rand v. Rowland*, 154 F.3d 952, 961–62 (9th Cir. 1998). Here, on the same day that defendant Ricci filed her motion, the other defendants filed their motion to dismiss, along with a notice of dispositive motion. *See* Dkts. 20–22. However, the other defendants' notice refers to

1 them—and not to defendant Ricci—and plaintiff may have believed that he needed to file an
2 opposition to the other defendants' motion, but not to defendant Ricci's.

3 Out of an abundance of caution, therefore, the undersigned declines to issue a report and
4 recommendation on defendant Ricci's motion to dismiss at this time. Rather, defendant Ricci
5 shall file a notice of dispositive motion on or before **May 15, 2020**, and the Court renotes her
6 motion to dismiss (Dkt. 20) for consideration on **May 29, 2020**. Under the Court's local rules,
7 therefore, plaintiff will have until May 25, 2020 to file any response to the motion to dismiss.

8 The Clerk shall renote Dkt. 20 accordingly and shall send a copy of this Order to
9 plaintiff.

10 Dated this 5th day of May, 2020.

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14 J. Richard Creatura
15 United States Magistrate Judge
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